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In the Supreme Court of the United States

OCTOBER TERM, 1968

No. 1381

HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LIMITED,
Petitioner,

vs.

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO,
Respondent.

ELEANOR PARRY and SABINA ZIGAL, also known as SABINA BITKER,
Real Parties in Interest.

Petition for Writ of Certiorari to the Court of Appeal of the State of California, First Appellate District, Division 3

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In the Supreme Court of the United States

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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO,
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ELEANOR PARRY and SABINA ZIGAL, also known as SABINA BITKER,
Real Parties in Interest.

Petition for Writ of Certiorari to the Court of Appeal of the State of California, First Appellate District, Division 3

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

The Hong Kong & Shanghai Bank, Hong Kong (Trustee) Limited, prays that a writ of certiorari issue to review the judgment of the Court of Appeal of the State of California,

First Appellate District, Division Three, entered in the above-entitled case on December 4, 1967.

OPINIONS BELOW

No formal opinion has been written in the above-entitled case. The orders of the Superior Court of the State of California, in and for the City and County of San Francisco, and of the Court of Appeal are printed in Appendix B hereto, *infra,* pp. ii-iii and p. iv, respectively.

JURISDICTION

The judgment of the Court of Appeal was entered on December 4, 1967 (R. 9; p. iv, *infra*). A timely petition for hearing before the California Supreme Court was denied on December 27, 1967 (R. 485). The order of the Supreme Court is printed in Appendix B hereto, *infra,* p. v. On March 16, 1968, this Court entered its order extending Petitioner's time within which to file its petition for writ of certiorari to and including May 1, 1968.

The jurisdiction of this Court is invoked under 28 U.S.C. Section 1257 (3).

After service of process was made upon its alleged agent in California, Petitioner filed a timely motion to quash such service (R. 14-15), specifying that it "has never done business in California" and thus was not subject to *in personam* jurisdiction (R. 12, 14). Under California Code of Civil Procedure Section 411(2), "doing business" as a ground for *in personam* jurisdiction is as broad as Federal due process will allow. *Cosper v. Smith & Wesson Arms Co.,* 53 Cal.2d 77, 346 P.2d 409 (1959).

After the California Superior Court denied its motion to quash service of process, Petitioner filed a timely petition

for writ of mandate in the California Court of Appeal (R. 1-278). In its petition for writ of mandate, Petitioner specified that subjecting it to *in personam* jurisdiction under the concept of "doing business" was inconsistent with "the due process clause of the United States Constitution" (R. 126).

QUESTION PRESENTED

Does the due process clause of the Fourteenth Amendment to the Constitution of the United States permit the State of California to assert *in personam* jurisdiction over a Hong Kong Bank, which has never had an office in California, or a director, officer, employee or agent of any kind resident in California, simply because the Bank maintains bank accounts and trust funds in California?

The importance of this question to banks, not only throughout the United States but throughout the world, cannot be overemphasized.

CONSTITUTIONAL PROVISION AND STATUTE INVOLVED

The constitutional provision involved is the Fourteenth Amendment to the Constitution of the United States, printed in Appendix A hereto, *infra*, p. i. The statute involved is California Code of Civil Procedure Section 411 (2), printed in Appendix B hereto, *infra*, p. i.

STATEMENT

On January 2, 1962, plaintiffs Eleanor Parry and Sabina Zigal (also known as Sabina Bitker) and defendant Irene Zigal settled a prior California lawsuit, wherein plaintiffs asserted a claim to one-third of the estate of defendant's husband, then living and a party to that lawsuit. Defendant's husband died on January 3, 1962 (R. 44-45). Petitioner

administered the decedent's probate estate in Hong Kong (R. 22, 73). Defendant succeeded to the entire estate (R. 45).

In Hong Kong, on November 28, 1962, defendant established an inter vivos trust, naming herself beneficiary and Petitioner trustee (R. 413, 418). Since the creation of this trust, it has been administered exclusively in Hong Kong, and the corpus has never been located, even partially, in California. Indeed, prior to the ruling of the Superior Court, that corpus became subject to the *in rem* jurisdiction of the Hong Kong Supreme Court in an interpleader action filed by Petitioner on September 1, 1967 (R. 412-415).

On September 3, 1965, nearly three years after the probate of the decedent's estate and the creation of defendant's trust, plaintiffs filed the present action in the Superior Court (R. 27). Against defendant, they sought to set aside as fraudulent the settlement of the prior California action and to reassert a claim to one-third of the decedent's estate, now in the hands of defendant (R. 42-54). Against Petitioner, as if it were a stakeholder, plaintiffs sought to impose a constructive trust upon the assets which it held in Hong Kong on behalf of defendant (R. 45-46).

Petitioner is not involved in the fraud litigation between plaintiffs and defendant, and that controversy will proceed to final determination without any participation by Petitioner. However, Petitioner is not a mere stakeholder, but a trustee with a strict fiduciary duty to protect the corpus of the trust it holds.

On December 2, 1965, Petitioner moved to quash the service of process purportedly made upon it on the ground that it was not doing business in California within the meaning of Federal due process (R. 14-16).

The following facts are relevant to the issue of Petitioner's contact with California at the time of service of process:

Petitioner is a trustee company incorporated under the laws of Hong Kong. It maintains its offices in Hong Kong and has never had an office in California. It has never qualified to transact business in California and has never appointed an agent for service of process in California. It has never had a director, officer, employee, or agent of any kind resident in California (R. 16).

Petitioner is a subsidiary of The Hongkong and Shanghai Banking Corporation, also a Hong Kong corporation (R. 16), which does business in California through its subsidiary, The Hongkong and Shanghai Banking Corporation of California, a California corporation (R. 168-170).[1] In brochures available at its California office, the parent corporation lists these two subsidiaries as components of "The Hong Kong Bank Group" (R. 69-71, 75-84).

At the time of service of process, Petitioner had three types of deposit accounts with the California subsidiary: commercial savings accounts; time certificate accounts; and safe custody accounts for stocks, for which the normal service charge was assessed against Petitioner (R. 19-21). These accounts contained trust funds and were listed in Petitioner's name as trustee (R. 19-21, 179).

Petitioner solicited no trust business in California, and no trust administration was conducted for it by the California subsidiary (R. 181, 194, 219-223, 255, 259). In fact, the California subsidiary performs no services for Petitioner that it would not perform for any depositor, or for any correspondent bank in the transmission of funds (R. 150-152, 219, 228, 245-246, 254-255, 260-267).

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1. Both the Hongkong and Shanghai Banking Corporation and The Hongkong and Shanghai Banking Corporation of California have appeared generally in this action and have not questioned *in personam* jurisdiction.

All that is shown in the record is that at the time of service of process Petitioner had deposit accounts with a bank located in California. Based upon this insubstantial contact with the forum, a Hong Kong corporation has been compelled to enter California to protect the corpus of a trust which is tied to Hong Kong in every aspect save the personal appearance of the beneficiary before the California court.

Moreover, the rulings of the courts below seriously interfered with the power of the Hong Kong Supreme Court to effectively deal with the corpus of a trust over which it had *in rem* jurisdiction. Indeed, these rulings made Petitioner answerable to the California court at a time when it was subject to a final order of the Hong Kong Supreme Court regarding the disposition of the trust corpus (R. 455-456).

REASONS FOR GRANTING THE WRIT

1. The question presented is of major importance to all banking and trust institutions, both those located in the United States and those located in foreign countries. It is a common practice for all banks today to keep accounts of the type involved herein in many states in this country, indeed in all parts of the world.

Clearly, a holding that this activity, without more, subjects a bank to *in personam* jurisdiction for any cause of action wherever such accounts are found will have substantial impact upon the entire banking community. It is thus in the public interest that this Court develop some concrete guidelines in this area.

Without such development, there is the danger that statutes such as California Corporations Code Section 6451 (which subjects foreign lending institutions to *in personam*

jurisdiction if they have savings accounts in California) might be expanded from jurisdiction for causes of action related to such accounts to jurisdiction for *any* cause of action.

2. The orders of the courts below are not in accord with the decisions of this Court formulating the Federal due process test for *in personam* jurisdiction (*International Shoe Co. v. Washington*, 326 U.S. 310, 66 S. Ct. 154, 90 L.Ed. 95 (1945); *McGee v. International Life Ins. Co.*, 355 U.S. 220, 78 S. Ct. 199, 2 L.Ed.2d 223 (1957); *Hanson v. Denkla*, 357 U.S. 235, 78 S. Ct. 1228, 2 L.Ed.2d 1283 (1958)), as that test has been recently synthesized in the opinions of the Court of Appeals for the Ninth Circuit.

This synthesis can be stated as follows: there must occur within the forum at least one act which is related to the cause of action sued upon; and then, if such act is shown, the court must go on to decide if the assumption of jurisdiction accords with concepts of fair play and substantial justice. *T. D. Reeder Contractors of Ariz. v. Higgins Indus.*, 265 F.2d 768 (9th Cir. 1959); *Kourkene v. American BBR, Inc.*, 313 F.2d 769 (9th Cir. 1963); *Mechanical Contractors Ass'n. v. Mechanical Con. A. of N. Cal.*, 342 F.2d 393 (9th Cir. 1965); *Dragor Shipping Corp. v. Union Tank Car Co.*, 361 F.2d 43 (9th Cir. 1966); *Taylor v. Portland Paramount Corp.*, 383 F.2d 634 (9th Cir. 1967).

In making this synthesis, the court in the *Reeder* case recognized the opinion of this Court in *Perkins v. Benquet Consol. Mining Co.*, 342 U.S. 437, 72 S. Ct. 413, 96 L.Ed. 485 (1952), but expressly held that the *Perkins* case rested upon its own peculiar facts.

In the *Perkins* case, not only was the chief executive of the foreign corporation found physically within the forum, but during the cessation of that corporation's foreign activities, all corporate affairs were conducted in the forum.

In the instant case, the contact between Petitioner and California was insubstantial; and, under the Ninth Circuit test, if correct, jurisdiction cannot be assumed. Certainly, the contact in the instant case is far below that in the *Perkins* case.

The opinions of this Court support the validity of the Ninth Circuit test. In *McGee v. International Life Ins. Co., supra,* and *Travelers Health Ass'n. v. Commonwealth of Virginia,* 339 U.S. 643, 70 S. Ct. 927, 94 L.Ed. 1154 (1950), this Court upheld *in personam* jurisdiction where the contact with the forum was slight; however, the cause of action was related to that contact.

It is vital to the orderly and uniform development of the Federal due process test for *in personam* jurisdiction that this Court re-examine the *Perkins* case in light of the recent Ninth Circuit decisions.

The unsettled nature of the problem is underscored when the orders of the courts below are viewed in relation to *Fisher Governor Co. v. Superior Court,* 53 Cal.2d 222, 1 Cal. Rptr. 1 (1959), wherein the California Supreme Court acknowledged the approach of the *Reeder* case and the need for substantial contact when the cause of action is not related to that contact.

A re-evaluation of the *Perkins* case will necessarily afford this Court the opportunity to further develop *Hanson v. Denkla,* 357 U.S. 235, 78 S. Ct. 1228, 2 L.Ed.2d 1283 (1958), wherein this Court held that the Delaware trustee of a Delaware trust was not subject to the jurisdiction of the Florida courts, even though the trustee remitted trust income to the settlor in Florida, and many claimants were located there.

This Court stated that "The record discloses no instance in which the *trustee* performed any acts in Florida that bear the same relationship to the [trust] agreement as the solicitation in *McGee.*" (357 U.S., at 252.) If this Court was insisting upon a correspondence with the *McGee* case, then it was seeking to find an act related to the cause of action. No doubt, it is from this language that the Ninth Circuit approach has flowed. This Court should settle any dispute as to the meaning of the *Hanson* case.

CONCLUSION

For the foregoing reasons, this petition for a writ of certiorari should be granted.

Respectfully submitted,

WILLIAM H. ORRICK, JR.
Counsel for Petitioner

Dated: April 29, 1968

Appendix A

FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

" • • • • • "

CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 411(2)

"The summons must be served by delivering a copy thereof as follows:

" • • • • •

"2. If the suit is against a foreign corporation, or a nonresident joint stock company or association, doing business in this state; in the manner provided by Sections 6500 to 6504, inclusive, of the Corporations Code.

" • • • • • "

Appendix B

ORDER OF SUPERIOR COURT

Endorsed: Filed Oct 11 1967 Martin Mongan, Clerk By P. W. Murphy Deputy Clerk

In the Superior Court of the State of California, in and for the City and County of San Francisco

No. 558725

Eleanor Parry and Sabina Zigal, also known as Sabina Bitker, Plaintiffs,

vs

Irene Zigal, Hongkong & Shanghai Banking Corporation, Hongkong & Shanghai Banking Corporation of California, Wells Fargo Bank, Doe Four, Hong Kong & Shanghai Bank Kong Kong (Trustee) Ltd., Doe Six and Doe Seven, Defendants.

ORDER DENYING MOTION TO QUASH AND ORDER GRANTING MOTION FOR PROTECTIVE ORDER

The motion of defendant HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LTD. to quash service upon it of summons in this matter, the motion of said defendant for protective order, and the motion of plaintiffs

for an order compelling answers to interrogatories, came regularly to be heard on July 14, 1967 and was heard further on September 18, 1967 before the above entitled Court; Funsten & Caldwell by James W. Funsten appearing for plaintiffs, Orrick, Herrington, Rowley & Sutcliffe by Richard J. Lucas appearing for defendant HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LTD., and Elster S. Haile appearing for defendant IRENE ZIGAL; and the Court having heard the arguments and considered the proofs, and good cause appearing therefor:

IT IS HEREBY ORDERED that:

1. The motion of defendant HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LTD. to quash service of summons upon it herein is denied;

2. The motion of defendant HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LTD. for a protective order striking all interrogatories in the set of interrogatories dated June 17, 1967, is granted; and,

3. The motion of plaintiffs for an order compelling answers to the interrogatories directed to defendant HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LTD. and dated June 17, 1967, is denied.

Dated: October 11, 1967.

ROBERT J. DREWES
Judge of the Superior Court

ORDER OF COURT OF APPEAL

Endorsed: Filed Dec 4 - 1967 Court of Appeal - First App. Dist. Lawrence K. Elkington, Clerk

Court of Appeal of the State of California in and for the First Appellate District

Division Three

No. 25100

Hong Kong & Shanghai Bank., etc.,
Petitioner,

vs.

Superior Court, City and County of San Francisco,
Respondent.

Eleanor Parry, et al.,
Real Parties in Interest.

By the Court:

The petition for a writ of mandate is denied.

Dated Dec 4 - 1967

DRAPER, P.J.

ORDER OF SUPREME COURT

Endorsed: Filed Dec 27 1967 William I. Sullivan, Clerk
By ..... S. F. Deputy

Order Due January 3, 1968

ORDER DENYING HEARING

After Judgment by the Court of Appeal
1st District, Division 3, Civil No. 25100

In the Supreme Court of the State of California
In Bank
Hong Kong and Shanghai Bank, etc.
v.
The Superior Court of the City and County of San Francisco

Petition for hearing DENIED.

TRAYNOR, Chief Justice

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FILED
MAY 29 1968
JOHN F. DAVIS, CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1968

No. 1381

HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LIMITED,
Petitioner,

vs.

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO,
Respondent.

ELEANOR PARRY and SABINA ZIGAL, also known as SABINA BITKER,
Real Parties in Interest.

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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In the Supreme Court of the United States

OCTOBER TERM, 1968

No. 1381

HONG KONG & SHANGHAI BANK, HONG KONG (TRUSTEE) LIMITED,
Petitioner,

vs.

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO,
Respondent.

ELEANOR PARRY and SABINA ZIGAL, also known as SABINA BITKER,
Real Parties in Interest.

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

The opposition of Real Parties in Interest Eleanor Parry and Sabina Zigal to the Petition of Hong Kong & Shanghai Bank, Hong Kong (Trustee) Ltd. respectfully shows:

QUESTION PRESENTED

Petitioner's statement of the "Question Presented" in its Petition herein is predicated upon assumptions of fact which are not supported by the record herein. Contrary to the assumptions in said "Questions Presented", the facts as detailed in the Statement of Facts which follows herein show that:

(1) Petitioner is not a "Hong Kong Bank", but is a wholly owned subsidiary "trustee company" of the Hongkong & Shanghai Banking Corporation, an international bank, which maintains an office in California. The sole business activity of Petitioner is to act as a trust department for said international bank and it has no existence independent of said bank.

(2) Petitioner, through its parent and affiliate, has agents resident in California who distribute literature in California advertising Petitioner's services.

(3) Petitioner, through its parent and affiliate, maintains and services in California assets of which it is trustee which include common stock certificates, debentures, certificates of deposits and savings accounts.

Thus, the question presented is more accurately stated as follows:

Did the State of California error in asserting *in personam* jurisdiction over Petitioner, the incorporated trust department of its parent international bank, when Petitioner's services are advertised in California by its parent and an affiliate, when, through its said parent and affiliate, Petitioner maintains and services trust assets in California through the California office of its parent and affiliate, and when Petitioner has no existence independent of its parent which does business in California?

STATEMENT OF FACTS

In order to clarify and complete the "Statement" contained in the Petition herein, Real Parties respectfully call the attention of the Courts to the following facts:

In its Petition, Petitioner often refers to itself as a bank. This is not the case. Petitioner is a corporation whose sole function is to act as the trust department for its parent the Hongkong & Shanghai Banking Corporation, an international bank with an office in California. (R. 57–62; 289–290). The record shows that Petitioner is a wholly owned subsidiary "trust company" of Hongkong & Shanghai Banking Corporation, has no money in its own name and issues no separate financial statements. (R. 58) Thus, it appears that there was no real separate existence between Petitioner and its parent Hongkong & Shanghai Banking Corporation.

At page 5 of the Petition, Petitioner states that it "had three types of deposit Accounts" in California. Discovery revealed that trust assets of which Petitioner is trustee are maintained and serviced at the San Francisco office of its parent Hongkong & Shanghai Banking Corporation and an affiliate. (R. 291) These trust assets included the following: many shares of Common stocks, debentures, eight Certificates of Deposit with a face value of $1,045,583.89 and fourteen Savings Accounts totaling $63,448.77. (R. 60–61, 291) The documents evidencing title to the said securities certificates and savings accounts are also kept at the San Francisco office. (R. 61, 291) The San Francisco office of parent and affiliate collected and remitted to Petitioner the dividend and interest income on said trust assets. (R. 61) This was done for the convenience of Petitioner to avoid currency regulations. (R. 59, 297)

At page 5 of Petition herein, Petitioner states that it "solicited no trust business in California." The record clearly shows that booklets and periodicals advertising Petitioner's services were distributed in California from the San Francisco office of Petitioner's parent and affiliate. (R. 69–81, 296) These brochures invited the public to do business with the various divisions of the Hongkong Bank Group, including Petitioner, referred to as its "trustee company in Hong Kong." (R. 69–71, 296) Forum, there are such Contacts.

There are important California contacts not mentioned in Petition herein. First, Leon Zigal, who made the contract to will on which this lawsuit is based, owned and maintained a residence in San Mateo, California, where he resided from time to time until his death on January 3, 1962 in San Mateo County, California. (R. 292) At the time of his death, Leon Zigal owned securities which were held in the Trust Department of the San Francisco office of the Hongkong Bank Group as security for a loan. (R. 292) These securities were a portion of the assets in which Real Party Eleanor Parry claims a one-third interest in the California lawsuit from which Petitioner seeks to be released. (R. 72)

Second, defendant Irene Zigal, an important customer of Petitioner, has resided in California from time to time, and has talked to officers of the San Francisco office about her account. (R. 296) However, an officer of the San Francisco office refused to state whether he and Irene Zigal spoke on the subject of her account with Petitioner. (R. 296)

Third, Leon Zigal's last Will was made and executed in California and Wells Fargo Bank, a California corporation, was named as Executor of his Estate in that Will. (R. 73) Petitioner's parent Hongkong & Shanghai Banking Corporation was named in said Will as the Hong Kong Executor. (R. 73) However, Hongkong and Shanghai Banking Corporation delegated authority to Petitioner to act as Executor. (R. 73) The attorneys for the San Francisco office of the Hongkong Bank Group represented Petitioner with regard to the California assets of Leon Zigal's Estate. (R. 60, 293)

Finally, Petitioner's attorneys volunteered to aid defendant Irene Zigal by advising a witness to decline to answer questions on deposition in this action (R. 288), and thus petitioner seeks immunity from California process while its attorneys actively seek to affect the outcome of this action.

ARGUMENT

I

Petitioner has more activity in California Than Merely Maintaining Bank Accounts or Distributing Trust Income

Petitioner argues on the bottom half of page 6 and the top four lines of page 7 of its Petition that a corporation should not be to *in personam* jurisdiction merely because it maintains bank accounts within the forum. This argument has no relevance to the case at bar because the activity of petitioner in California includes distribution of literature in California by the parent corporation advertising the services of petitioner and the maintenance and servicing of various trust assets. The bank accounts were not with other institutions, but were entirely with petitioner's parent in California; petitioner also maintained in California, through its parent, stock certificates and employed its parent's facilities in California for the collection and remittance of dividend income in order to avoid currency regulations. Thus petitioner conducted substantial parts of its trust business in California.

In the case of *Hansen vs. Denkla,* 357 U. S. 325, 78 S. Ct. 1228, 2 L. Ed. 2nd 1283, cited by petitioner, there was no activity within Florida other than the distribution of income to beneficiaries, and thus it is distinguished on the facts from the case at bar.

II

Even if it is Required that There be Contacts of the Cause of Action to the Forum, there are such Contacts.

In California a corporation may be subjected to *in personam* jurisdiction because it is doing business within the state without a showing that the cause of action sued upon arose out of the activities of the defendant in the State. *KLM vs. Superior Court* (1951) 107 Cal. App. 2nd 495.

If contacts of the cause of action are required, there are such contacts in the case at bar such as: naming the petitioner's parent corporation as the executor of the Will drawn in California, the maintaining in California, by petitioner's parent corporation, assets in which real parties in interest claim an interest, the residence of defendant Irene Zigal in California, and the participation of petitioner's attorneys in the administration of the California assets of Leon Zigal held by parent in California and the assistance rendered by them to defendant Irene Zigal in the California litigation.

III

Petitioner is in Fact Present in California Through its Parent Corporation

The record shows that Petitioner has no money in its own name, makes no independent financial reports, uses facilities interchangeably with its parent Hongkong & Shanghai Banking Corporation and performs no function other than being a trust department for said parent which has offices in California.

Advertising in literature distributed by an affiliate and failure to maintain real separateness between affiliates was the basis of *in personam* jurisdiction in *State vs McPherson* (1957, Supreme Court of New Mexico) 309 Pac. 2nd 981.

A business actually run as a single entity cannot be fragmentized solely as a means of obtaining immunity from collective liability. *U.S. vs Buffalo Weaving and Belting Co.*, 155 F. Supp. 454.

A foreign subsidiary may be held to be doing business in a state through its parent. Restatement, Conflicts of Laws, (Proposed Final Draft, Sec. 52, Reporter's Note at p. 227.)

Petitioner should not avail itself of the convenience and protection of the banking facilities of its parent in California, and yet be immune from *in personam* jurisdiction in California, especially where it appears that petitioner and its parent which has an office in California are part of one worldwide business entity.

Conclusion

The petition for Writ of Certiorari should be denied.

Respectfully submitted,

David B. Caldwell
Counsel for Petitioner